App. F. IX-4

193 4 (Law)

File No. 210-34

Serial Nos. 1

Previous References

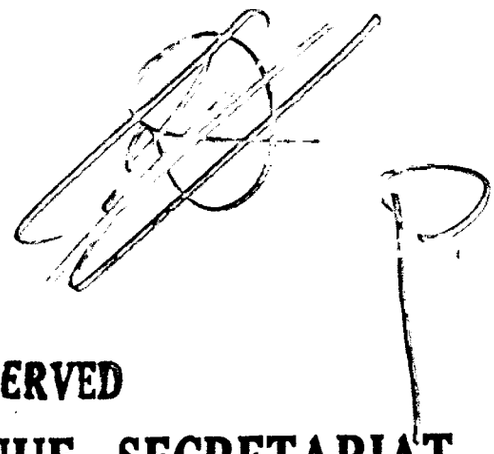
Law 1/34-31-1-14
" 50-33-1-43-5

Later References.

Law 65-35-1-5

327-35 (IR)

110-41; 1-2;



PRESERVED

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. One

Part B for July '35

SUBJECT.

Appointt. of Certain Officers to be the officers to whom notice should be given of order of attachment of the Salary or allowances of Certain ~~Officers~~ persons.

Notifn no - P 7164. dy 28/29-6-35.

14 Refee... Para 9 of the above article

Our rule - Art. 56. Civ. Pr. Code

derived from the British Act and is Contained Part II of the Madras Hl & Accts Code.

The latter has no special provision for cases when the Treasury officer happens to be the officer whose pay is attached. Only in Madras city, the Accountant General himself takes the place of the Treasury Officer. It seems therefore that there has been no need for a special provision to cover cases of this kind, which must in their nature be few. Experience has not so far at any rate till now, pointed to a change.

The irregularity of Mr. Purna Chandra Iyengar's Office was not due to any inherent defect of the rule, but the defect was imported by individual prejudices. The Complete Manual Consulted, Rules in Manual notes Mar 2

2-11-34

16 Returned with compliments.

17 2 Under the rules of the civil procedure Code, the attachment order is to be sent to an officer who disburses the pay of the officer whose pay is attached by the Court. The provision for the serving of the notices of orders of attachment of salary prescribed in Art.56 M.C.A.C. Vol.I is not in contravention of the provisions in the Civil procedure Code and is also similar to the rulings contained in the Madras and Financial Account Code.

3. 18 The ~~In~~ cases of attachment of disbursing officer's own salaries will not be many and the present solitary instance does not necessitate our considering an amendment to the existing procedure as Art.56 A of M.C.A.C.Vol.I makes the officer personally responsible to make good the loss that may be caused to Government on account of non-compliance with the attachment orders.

By Seshavendra R
16.11.34
Comptroller in Charge.

By 16/11

19. The Comptroller may perhaps be asked address the Accountant General, Madras, as regards the procedure followed in such cases.

yes.
10.12.34 10/12/34.

To Comptroller with compliments for favour of obtaining definite information regarding the procedure followed in Madras, by addressing the Accountant Genera Madras.

By order,

For Financial Secret

11-12-34.

U.O.No.261/TADB II dated 12th February 1935.

21 Returned with compliments.

22 2. A copy of letter No.G.A.Rev.1627 dated 2nd/4th February 1935 received from the Accountant General, Madras, on the subject is submitted herewith for information.

Comptroller.

12/2

MSR 23 Submitted for orders. In cases in which the officer authorised to receive the notice of attach is also the person whose salary is sought to be attached, the Court may perhaps be required t send a copy of the notice to the Government

officer who is immediately superior to the person concerned. The immediate superior may be required to see that the order of attachment is carried out.

26-2-35

This may be approved.

H. Seey) 26/2/35.

Note continued as instructed by the Financial Secretary. As stated by the Comptroller in para 2 of his note dated 16-11-34, the cases of attachment of disbursing officers own salaries will not be many, and no change in the existing rules or procedure appears necessary. It appears sufficient if circular instructions are again issued to the effect that court attachment orders should be complied with promptly and severe disciplinary action will be taken against officers who fail to comply with these orders. May be referred to the Home Section for its remarks.

of attachment of salary. Even subsequent to the issue of this Circular too many cases of non Compliance have come to the notice of Govt. no fresh Circular seems necessary as suggested ~~above~~ in para 18 supra.

ISD 30/4

No doubt the Case of Mr. Purnaiya is at present the only Case brought to the notice of Govt where ~~the~~ the attachment is in respect of the pay of a disbursing officer and the notice is to issue to him alone - But the Case points out a ~~great~~ defect in the existing procedure and had it not been for a technical defence open to us in the Case, it would have meant a loss of nearly Rs 800/- to Govt I think therefore that it is more desirable to remedy the defect pointed out ~~pointed out by the~~ than to allow to exist on the plea that the Case is a solitary instance on the point. The Govt advocate in this ~~in the~~ instant file has said that learned Chief Justice himself stated during the Course of the arguments in that Case that rules require modification to Safeguard the interests of Govt

File No. of 193

General and Revenue Secretariat

I would therefore suggest that the notification issued under order 21 rule 48 C.P. Code, on which article 56 of the M.C.A.C depends, be amended so as to nominate some ~~other~~ officer other than the Treasury Officer as the officer to receive the notice of attachment in case of attachment of pay of Treasury officer himself.

(Gen Secy)

MM
30/4/35

GENERAL SECRT
1 MAY 19

Secretariat. Law File No.

Sub? on a draft notification for appl

JSP 20/5 Genl Secy) 1824 20/5

II I) Fin Secy) 1 Fin 31/5

thro' Fin Secy) mc 1/6

Besides Gazetted Officers, there are certain non-gazetted officers who draw their salaries on bills from the Treasuries along with the salaries of their subordinates, such as Agricultural Inspectors, Sub Registrars etc., and in their cases, the notice of attachment should be sent to the Treasury Officers concerned. The same procedure has to be followed in the case of officers who draw cheques for their own salaries. I have made slight alterations in the draft Notification providing for this. 616135.

The present proposal is that in the case of court attachments of salaries of Treasury Officers, the notice of attachment should be sent to the Comptroller.

The point for consideration is as to how the Comptroller will be able to enforce the recovery from these officers. The officers, to whom notice of attachment is now required to be given, are officers who actually disburse their salaries by cash or by cheque and will be able to give effect to the attachments. ~~xxxxxx~~ The Comptroller does not pay the salarie

8

1001/7L

790 F/24 P 1

File No. of 193

General and Revenue Secretariat

of these officers and will therefore be not in a position to give effect to the attachment orders and will have to depend on the officers themselves. The proposal is therefore not a practicable one and will impose on the audit office a responsibility, which it will not be in a position to discharge. If this is to be necessarily introduced, the pay bills of all such Treasury officers whose pay comes under attachment, will have to be required to be preaudited by the Comptroller and passed for the net amount, deducting the amount attached and the ~~proposed arrangement is to be introduced~~ Comptroller will have to arrange to credit it to a suspense head and remit it to the concerned court. This may involve some delay and inconvenience in their encashment but this is inevitable if the proposed arrangement is to be introduced. But such cases will necessarily be rare.

Treasury Officers themselves -
& the Comptr is sworn as the
Parl Officer who ~~is~~ could do so.
He can give instrs & the Treasury
cond & can watch, when the
accounts are rec'd & otherwise, whether
the recoveries are being effected
Such cases will after all, be
rare & then in such extreme cases,
the Audit Office might ought be
in a better position than others to prevent
irregularities

JPD
21/6

For personal & confidential

I Primrose)

HM
25/6

MAP
26/6

POLICE DEPARTMENT.

Tel. Address
"POLICE"
PHONE No. 298

When replying please quote No.

588/32

OFFICE OF THE
INSPECTOR-GENERAL OF POLICE IN MYSORE,

Dated Bangalore, the 5th February *1935*

RECEIVED 6. FEB. 1935

GENERAL BR.

FROM

F. A. HAMILTON, ESQ., C.I.E.,
Inspector-General of Police in Mysore,
Bangalore.

To

The General Secretary to the Government of Mysore,
Bangalore

SIR,

Subject:- Civil Revision petition No.164/32 (A.K.Ranga Iyer VS Clerk H.S.Bhaskar Rao and Chief Secretary to Government) on the file of the High Court of Mysore.

With reference to the correspondence ending with your letter No.P.5199 dated 28/29-3-1933 in the above case, I have the honor to enclose herewith, for the information of Government, a copy of the order dated 6-12-1934 passed by the High Court, received from the Government Advocate, dismissing the decree holder's application against Government and to state that in view of this decision, the question of apportioning responsibility among departmental officers does not arise.

2. Having regard to the grounds on which the High Court decision is based, instructions seem to be necessary to all officers receiving such warrants for execution with a view to their carefully scrutinising the warrants and returning such as do not contain the name and other particulars correctly. I have issued instructions to my officers.

3. The Public Prosecutor, Mysore Division, has been separately addressed in regard to the recovery of a sum of Rs.174-5-0 deposited by him as per Government Order No.P.2713-16/Law 55-32-8 dated 11/12-11-1932 with the court of the Additional Subordinate Judge, Mysore.

4. As to the costs incurred in filing the Revision petition, a sum of Rs.10/- had been advanced to the Government Advocate on 26-10-1932. He will now be requested

to send a statement of final accounts, whereafter, sanction of Governm obtained to admit this expenditure.

I have the honor to be,
Sir,
Your most obedient servant

INSPECTOR GENERAL OF POLICE.

Subd for perusal

Re the question of issuing suitable instructions to the disbursing officers necessary action is being taken in the main file which must be dealt with separately. This may perhaps be filed.

ISD 11/

This may be kept with the main file

ME 11/1

IN THE HIGH COURT OF MYSORE AT BANGALORE

Thursday, the 6th day of Decr. 1934

PRESENT

Mr. H.D.C. Reilly, Chief Justice

and

Mr. Justice K. Shankaranarayana Rao

Civil Revision petition No.164 of 1932-33

The Chief Secretary
to the Govt. of Mysore,
Bangalore — 3rd Judgment - Debtor

PETITIONER

By Mr. A.R. Somanatha Iyer for
Mr. A.R. Nagesvara Iyer,
Government Advocate)

-Vs-

A.K. Ranga Iyer .... Decree Holder .. Opponent

(By Mr. Mirle N. Lakshminaranappa)

Civil Revision petition against the order dated 27-7-1932 passed by the Additional Subordinate Judge, Mysore, in Execution Case No.1121 of 1930-31/S.C. No.852 of 1924-25.

This petition coming on for hearing this day the Court made the following:-

ORDER

The officer to whom the warrant of attachment in this case should have been addressed in accordance with the appointment made by the Government under Order XXI Rule 48 (1), Code of Civil Procedure as shown in Art.56 of the Civil Account Code, was the Head of the office in which the Judgment Debtor was serving, that is the Superintendent of Police, French Rocks. It now appears that the warrant was addressed to the Assistant Superintendent of Police, French Rocks. It does not appear that there was then any officer so designated officially. As the warrant was not addressed to the officer appointed by the Government within the meaning of Rule 48 (1) the conseqnences which would have followed serving the warrant on the right officer cannot be enforced for the benefit of the decree holder. The order

of

of the ~~xxxxx~~ Subordinate Judge is set aside and the decree holder's application against the Government dismissed. But, as the objection that the right officer was not served was not taken for the Government at any stage, there will be no order as to costs.

Sd. H.D.C.Reilly,
Chief Justice

Sd. K.Shankaranarayana Rao,
Judge.

A.R COPY
Sd. Nageshwara Iyer
Govt. Advocate

COPY

for Inspector General of Police.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. P-7164
Law 210-36-1

General and Revenue Secretariat,

Dated Bangalore, 29 193

NOTIFICATION.

[illegible]

[illegible]

---

1. [illegible]

2. [illegible] 111 [illegible]

3. [illegible]

4. [illegible]

5. [illegible]

6. [illegible]

By order,

[illegible]
Secretary to Government.

[illegible]

G. R. S. App. F VI—G 2]

SUBJECT .....

.....

.....

Section Law

File No. 2 LA-34

Serial No. 1

Diary. No of letter replied to .....

General and Revenue Secretariat

( )

the *193*

Proceedings of the Government of His Highness the Maharaja of Mysore.

Date of issue 29/6/1 193 .

Signed by

LOP 7164

~~Read~~—

Notification

~~In modification of the~~

~~Notification~~ no. J. 658-cl: 61-12

d 23rd Aug 1913,) Under the

provisions of order XXI, rule 98 &

of the first Schedule of C.P

and in supercession of notification

the Govt of H. H. the Maharaja

~~Order thereon. No.~~ are pleased

appoint the officers mentioned

in Column 2 of the undermen-

tioned table to be the

persons to whom notice shall

be given of orders of attach-

ment of the Salary or allowance

of the persons named in Column

May this be—

(i) printed ? — yes

(ii) treated as a standing order ?— yes

(iii) published in the Gazette, English Part ? - yes

(iv) translated ?

(v) placed at the disposal of the press ? - yes

(vi) published in the Gazette, Kannada Part ?

Class of Judgment debtor	2. Office to whom notice of attachment should be given
Gazetted and other offices other than those coming under (3) below, drawing their salaries and allowances on bills from treasuries	Try. offices Concerned
Gazetted and other offices whose salaries and allowances are drawn on Cheques other than those coming under (4) below.	officers drawing cheques.
officers who draw cheques for their own salaries	Treasury officers concerned
Try. officers	Comptroller to the Govt of Kenya
Non Gazetted officers other than those referred to in (2) above	Heads of offices who draw the salaries & disburse to the officers concerned
Servants of local authority	The President of the Board or
Dt. Boards Mt. Councils etc	Council Concerned

List of Enclosure

NOTIFICATION.

No. P. 7164/Law 210-34-1, Dated Bangalore, 28/29th June 1935.

Under the provisions of Order XXI, Rule 48 of the first schedule of Civil Procedure Code and in supersession of Notification No.J. 658/Cts. 61-12-19 dated 23rd August 1913, the Government of His Highness the Maharaja are pleased to appoint the officers, mentioned in column 2 of the undermentioned table to be the persons to whom notice should be given of order of attachment of the salary or allowances of the persons named in column 1:-

Class of judgment-debtor	*Officer to whom notice of attachment should be given.*
1. Gazetted and other officers other than those coming under (3) below, drawing their salaries and allowances on bills from treasuries	Treasury officers concerned.
2. Gazetted and other officers whose salaries and allowances are drawn on cheques, other than those coming under (5) below.	Officers drawing cheques.
3. Treasury Officers.	Comptroller to Government of Mysore.
4. Non-Gazetted officers other than those referred to in (1) and (2) above.	Heads of offices who draw the salaries and disburse to the officers concerned.
5. Officers who draw cheques for their own salaries.	Treasury officers concerned.
6. Servants of local authorities *i. e.*, District Boards, Municipal Councils, etc.	The President of the Board or Council concerned.